

DIVISION B PROCEDURES ON MOTION TO TAX COSTS AND AWARD ATTORNEY'S FEES

Following the Court's Order finding that the movant is entitled to an award of costs and/or attorney's fees ("the Order"), in the event counsel for the parties are able to agree on an amount of attorney's fees and costs to be awarded, they can submit a proposed Order to chambers for entry without a hearing. If the parties are unable to agree on the amount of attorney's fees and costs to be awarded, the matter shall be set for an evidentiary hearing and counsel, to ensure an orderly and efficient presentation and/or resolution of this issue, shall comply with the following Procedures on Motion to Tax Costs and Award Attorney's Fees prior to such an evidentiary hearing:

A. Mediation.

1. This case is hereby referred to mediation with respect to the award of attorney's fees and costs. The parties will agree upon a mediator and a date for the mediation conference. In the event the parties cannot agree, the Court will select a mediator. Counsel for the moving party shall take the lead in coordinating the mediation and submit a proposed mediation order.

2. The costs of the mediation shall be shared equally by the parties involved in the pending motion.

B. Review Costs and Fees.

1. The parties and the Court will benefit by pre-hearing disclosures and party conferences to clarify the extent and basis of any objections to the motion on an item by item basis and resolve as much as possible through good faith negotiations and mediation.

2. Within thirty (30) days of the Order finding Entitlement, the movant(s) shall submit to the party(s) from whom fees or costs sought, the name and address of the fee/cost expert(s) that will be used in support of the motion, along with copies of all billing records, time sheets, invoices for costs, and any other documentary evidence relating to attorneys' fees and/or court costs claimed (collectively "the claim"). Failure to specifically identify and itemize any fee or cost may result in a waiver of the right to have it awarded or taxed.

3. Within thirty (30) days of the movant's itemized claim described in paragraph two (2) above, counsel for any non-moving party opposing any part of the claim shall respond in writing to each item of cost and each fee entry submitted by the movant. This response shall state whether counsel agrees or objects to said item. For each objection counsel shall state the basis and cite the supporting legal authority. They shall also identify the name and address of any expert it intends to use in rebuttal. Failure of a party to specifically object to an item may result in a waiver of any right to object.

4. Within thirty (30) days of receipt of said objections, the moving party shall respond in writing to each objection, stating whether said party concurs with the objection and, if not, state the basis and cite the contrary legal authority.

5. In the event there is an agreement to a particular cost item or fee request, but disagreement with the amount, the non-moving party shall state the objection and the amount believed to be reasonable.

6. *The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions*¹ shall be used in an attempt to resolve disputes over taxation of costs.

7. Not later than fifteen (15) days immediately preceding the mediation, counsel for the parties shall meet and confer to review the disputed items, reduce any stipulations to a written joint pre-hearing stipulation pursuant to the provisions set forth below.

C. Expert Affidavits.

1. Each party shall disclose their experts' opinions in affidavit form fifteen (15) days prior to the mediation.

D. Setting of the Evidentiary Hearing.

1. Upon completion of the mediation requirement set forth above, counsel shall provide to the Court, and file with the Clerk, in writing, a joint pre-hearing stipulation containing the following:

- (a) A list of the line items of costs or attorney's fees² that remain in dispute within the claim.
- (b) Identify by line item the legal and factual basis for each objection and dispute by the non-movant and the specific response of the movant(s) to each objection, together with legal authorities in support of each party's position.
- (c) A list of all non-expert witnesses that will testify and the subject matter about which they will testify to at the hearing.
- (d) A list of each expert who will testify at the hearing and the specific opinions he/she will render if not already contained within the affidavit previously filed.³
- (e) Whether experts will testify by affidavit or live.
- (f) The timeframe within which discovery on this matter will be completed and when each side will be ready for hearing on the issue of fees and costs.

¹ Appendix II, Fla. R. Civ. P.

² Which specific attorney's fee issues remain such as: the attorney's hourly rate, number of hours, hourly rates of paralegal and associates, application of an entitlement to a multiplier, etc.

³ Opinions not expressed within the affidavits, or by a supplemental submittal, will not be permitted at the hearing.

(g) A good faith estimate, of the total amount of time needed (in hours) for both sides to complete the hearing.⁴

2. Counsel shall meet and confer to prepare an appropriate proposed Case Management Order (“CMO”) Regarding Fee Hearing: scheduling the evidentiary hearing on the Motion to Tax Costs and Award Attorney’s Fees; setting deadlines for completion of any remaining discovery or disclosures, and incorporating the written Joint Pre-Hearing Stipulation referenced above.

E. Good Faith.

1. Counsel and the parties are directed to exercise good faith in complying with these procedures. The Court may consider appropriate sanctions with regard to unreasonable requests for taxation of costs, and requests for attorney’s fees, objections thereto, or failure to comply with these procedures.

2. Failure to comply with these procedures in the time frames set forth above may result in the motion being deemed abandoned and thus denied as moot.

F. Hearing Briefs.⁵

1. Any memorandums of law must be filed no later than three (3) business days before the date of the hearing and a copy provided directly to the Court.

2. Any caselaw must be submitted with the memorandum and highlighting is not only permitted but also appreciated by the Court.

G. Order.

1. In the event the Court takes any costs and attorney’s fees matters under advisement, counsel for the movant(s) and non-movant(s) opposing any part of the claim shall comply with Division B Policies and Procedures for submitting proposed orders to the Court set forth in Section VII and VIII published on the Court’s website.

⁴ The Judicial Assistant will assist the Court in selecting a date for the hearing depending on the amount of time requested.

⁵ The Court may rule at the conclusion of the hearing and, therefore, would like to review any caselaw submitted by counsel, analysis and arguments prior to the start of the hearing.